

Appendix by ACLU to Year 5 Rand Report

Readers are directed to the ACLU Appendix to the Year 4 Rand report for the most comprehensive review by the ACLU of the issues raised by the various Rand studies and the Rand Reports. This Appendix is limited to the Year 5 Report which is a much more limited study.

These Rand studies are not expert reports designed to determine liability for claims of discrimination. Rather, they are neutral studies designed to review a broad range of police activity that may or may not contribute to the perception still held by many that racial bias plays a role in policing in Cincinnati. As stated last year African Americans are interacting against the police after a history of many years of segregation, Jim Crow Laws, and blatant discriminatory practices. There is a harsh legacy of discrimination to overcome.

Every year we see data that shows why African Americans are reluctant to trust the police. This report is no different. But before we address those issues we should acknowledge again the progress that has been made. The latest crime analyst reports demonstrate the continued reduction of overall crime in Cincinnati. That is good. We also note that the City Manager continues to meet with an advisory group that includes the Collaborative parties and stakeholders in order to maintain the broad perspectives on policing that are needed to continue improving relations. That is good. Finally we note that the CPD continues its commitment to problem solving and the use of data to frame its enforcement efforts. Problem solving provides a clear rationale for policing actions and will reduce the harsh racial impact of police actions. Should this be more developed? Yes. But what is happening is good. We encourage these efforts by the CPD and we encourage continued reference to the recommendations set out in the Final Report of the Monitor, December 2008, www.cincinnati-monitor.org

This report looks at three questions (1) Is there a department wide bias in traffic stops? (2) Are there individual CPD officers who stop a disproportionate number of African Americans? (3) Are there racial differences in post-stop outcomes? Even when analyzing these narrow questions we can see the source of continued perceptions of racial bias.

1. **Burden of Policing Disproportionately Impacts African Americans.** Rand accurately notes at p. 50, “although black and similarly situated nonblack drivers have similar stop outcomes, the *burden of policing falls disproportionately on black residents.*” (emphasis added). This has been a constant observation in all five reports. This must be openly and regularly discussed by the CPD with the community so community leaders accept those strategies that are appropriate to the problem and reject those strategies where the impact on peaceful citizens does not support the action. For example, once again we see that “officers more frequently search black drivers than nonblack drivers (13 percent versus 6 percent). While this disparity is largely due to differences in when, where, and why the stops occurred,

these differences in experience can shape black drivers' views of CPD officers." That caution must be heeded. Why are there more stops of black drivers? Can the CPD bring down that number? If not can the CPD explain that discrepancy to the community? Is there a way to satisfy the community that "when, where, and why" stops occur are not in fact pretexts for bias? The CPD has moved away from reliance on some of the strategies that have the heaviest impact on the black community. That has helped improve relations. But that work is obviously not done.

2. **Ten Officers Stop Disproportionate Numbers of African American Motorists.** The data collection and analysis tools adopted during the term of the Collaborative agreement permit these officers to be identified and their policing reviewed. The City must assure the public that a thorough review will be conducted of these ten officers and that discipline will be imposed if they are in fact engaging in biased policing. Further, the ACLU urges the CPD to continue the videotape review of officers doing stops as that can assist leadership in addressing these issues.
3. **False Hits During Discretionary Stops.** Look at the Table 4.2. Rand reports that there is no difference between whites and blacks in the contraband hit rate during stops. But the news to the African American Community on this table is the continued disproportionate use of high discretion stops that result in false hits:

Heed these statements from page 46 – 47 of the Report:

"Even though we found no racial bias, officers conducted 1,324 high-discretion searches of black drivers in 2008 that recovered no contraband. Such stops, which the motorist likely views as being made for no good reason, disproportionately affect the black community and likely contribute to blacks' perceptions of unfair policing that were identified in last year's report (Ridgeway, Schell, Gifford, et al., 2009). While recovery of contraband from high-discretion searches, such as 33 weapon and 474 drug recoveries, can have a social benefit for the Cincinnati community, there is a societal cost for searches that result in no recovery of contraband."

(emphasis added). The ACLU has noted this issue before (the table shows many years of disparate search numbers) but it does not appear that the CPD has taken any steps to reduce the number of searches of African Americans that result in false hits. These searches are more than double the discretionary searches of white citizens. The related issue in these searches which is not addressed in the Year 5 report is the treatment of African American passengers, another source of tension with the police. The ACLU calls on the City to address this problem in a transparent manner so the community knows that progress will be made.